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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY

IN THE MATTER OF THE
SUSPENSION OR REVOCATION OF
THE LICENSE OF

KEVIN P. WARD, D.D.S.
License No. DI 14747

TO PRACTICE DENTISTRY)
IN THE STATE OF NEW JERSEY

Administrative Action

ORDER

CERTIFIED TRUE COPY

This matter was initially opened to the State Board of Dentistry on April 5, 2000, on the Attorney General's filing of an Order to Show Cause and Verified Complaint seeking the restraints against Kevin P. Ward, D.D.S. ("respondent" or "Dr. Ward"), based on the allegations that he had engaged in gross or repeated acts of malpractice and/or negligence and professional misconduct in connection with his treatment of minor patients. The Board entered temporary restraints on April 5, 2000, pending a hearing scheduled for April 10, 2000. On the return date of the Order to Show Cause, the Attorney General, by Hakima Bey-Lawson, Deputy Attorney General, and Dr. Ward, through his counsel, John Paul Dizzia, Esq., advised the Board that they had reached an agreement that would avoid the necessity for a hearing on that date. That agreement, among other things, required Dr. Ward to forego the practice of clinical dentistry in this and other jurisdictions pending the

outcome of the plenary hearing in this matter. The agreement also contained a provision that permits either party to seek modification of the terms of the order before the Board. The Board considered the proposed consent agreement and accepted it on April 10, 2000. The matter has been transmitted to the Office of Administrative Law for a plenary hearing as a contested case and has been set down for a hearing in late October and early November, 2000.

On July 18, 2000, respondent filed a motion seeking modification of the certain restraints imposed by the Consent Order entered on April 10, 2000. Specifically, the application seeks to modify that portion of the order that provides that Dr. Ward shall not practice clinical dentistry in this State or any other jurisdiction. Dr. Ward has asked the Board to permit him to practice clinical dentistry on patients over the age of thirteen. His request is premised on the alleged financial hardship that he has experienced and will continue to experience should the restrictions contained in the Consent Order remain in place. In support of the relief requested, Dr. Ward has argued that resolution of the matter is several months away and that continuation of the restraints is tantamount to a de facto revocation of his license without the requisite due process of law. Respondent has also submitted letters from other dentists, co-workers, and patients attesting to his competency and character. The Attorney General responded to the application asserting that Dr. Ward consented to these restraints in April with

the benefit of advice of counsel and that he should not now be relieved of the "bargain" he made. Further the Attorney General has argued that his Amended Verified Complaint raises significant practice issues and demonstrates that Dr. Ward's continued clinical practice constitutes a clear and imminent danger to the public.

The matter was initially scheduled to be heard at the Board's meeting of July 26, 2000. Upon the Attorney General's application for additional time to respond to the motion, Henry Finger, D.D.S., Board President, adjourned that date. His decision to adjourn was ratified by the Board at its July 26, 2000 meeting.* The matter was set down for August 9, 2000 for oral argument and limited testimony from Dr. Ward.

The Board has now considered the application of respondent to modify the restraints imposed in the Consent Order of April 10, 2000. It has reviewed respondent's certification, his testimony before the Board, and the legal memorandum and arguments of his counsel. The Board has also considered the Attorney General's written response to the motion and the deputy attorney general's oral argument. Moreover, the Board has reviewed the pleadings in this matter, including the Amended Verified Complaint, and supporting documents, which reflect, among other things, allegations that Dr. Ward has engaged in gross and/or repeated acts

* On July 26, 2000, the Board considered respondent's application to hear the matter that day; to bar one of the Board's counseling deputies from participating in the proceedings; and to grant relief pending the return date of the motion. The Board denied those motions for the reasons set forth in its order of July 28, 2000.

of malpractice, negligence or incompetence and professional misconduct. The Board has also reviewed the Answer and Statement of Affirmative Defenses filed by respondent.

Having completed that review, the Board has determined that the restraints set forth in the April 10, 2000, Consent Order should remain in place. The Board notes here that the terms of that Consent Order permit either party to seek modification of the order. Dr. Ward has exercised that option making the current application contending that changed circumstances warrant the Board's action.

The Board is aware that the allegations of the Amended Verified Complaint are disputed and that the hearing in this matter is scheduled for late October and November of this year. The Board is sensitive to the effects of the Consent Order on respondent's practice. However, the Consent Order, as entered in April, was the result of negotiation between the parties and, as accepted by the Board, reflected an exquisite balancing of respondent's property interest in his license and the public's health, safety and welfare. In consideration of the preliminary stage of the proceedings, and because the verified information submitted to date caused concern regarding the clinical care rendered directly to patients, the Board limited the restrictions imposed to respondent's clinical practice. The balance struck then has not been altered by the information considered by the Board in connection with this application.

The information submitted by respondent in support of his request to modify the restrictions now in place is simply not compelling. The preliminary proofs submitted by the Attorney General in support of the serious allegations of harm to several patients caused the Board enough concern about respondent's judgment that it deemed it appropriate to limit respondent's practice. Nothing submitted addresses in any significant manner those underlying concerns.

Further, the Board's acceptance of the settlement then proffered was based on its assessment that the terms of the order would protect the public interest pending a full hearing on the allegations. That in April Dr. Ward may have believed that such an arrangement would not be unduly detrimental to his financial well being is not relevant to the Board's consideration here. The changes to the financial situation articulated by Dr. Ward in his certification and through his counsel do not outweigh the need for continued protection of the public as effectuated through the limitations on Dr. Ward's practice since April 10.

The Board rejects respondent's argument that the continued limit on respondent's clinical practice amounts to a de facto revocation of respondent's license. Respondent has presented no evidence that he could not have foreseen the length of time to bring this matter to conclusion. Moreover, respondent has been, and will continue to be, able to derive a livelihood from his practice. The Board has not barred respondent, as it would have had his license been revoked, from obtaining any remuneration for

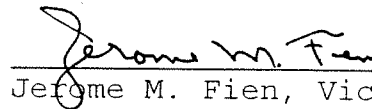
services rendered in the practice, nor has it barred him from working as a dentist in a non-clinical capacity. Sustaining the terms of the April Consent Order reflects the Board's judgment that the restrictions on respondent's clinical practice are appropriately tailored given the preliminary nature of the proceedings and the need to protect the public.

Therefore,

IT IS ON THIS 16th DAY OF AUGUST, 2000,

ORDERED that all terms and conditions as agreed and ordered in the Consent Order of April 10, 2000, including the limitation on respondent's practice of clinical dentistry, shall remain in effect pending a final decision of this Board.

New Jersey State Board of Dentistry

A handwritten signature in cursive script, reading "Jerome M. Fien", is written over a horizontal line.

Jerome M. Fien, Vice President